

FILE COPY

Office-Supreme Court, U.S.  
**FILED**

NOV 28 1961

JOHN F. DAVIS, CLERK

IN THE

**Supreme Court of the United States**

OCTOBER TERM, 1961

No. 13 Original

STATE OF TEXAS,

*Plaintiff,*

*v.*

STATE OF NEW JERSEY, *et al.*,

*Defendants.*

**ANSWER OF THE STATE OF NEW JERSEY TO  
THE COMPLAINT OF THE STATE OF TEXAS**

ARTHUR J. SILL,  
Attorney General of New Jersey,  
*Attorney for Defendant, State  
of New Jersey,*  
State House Annex,  
Trenton 25, New Jersey.

THEODORE I. BOTTER,  
Assistant Attorney General,

CHARLES J. KEHOE,  
Deputy Attorney General,

*Counsel for Defendant,  
State of New Jersey.*

## TABLE OF CONTENTS

---

	PAGE
I .....	1
II .....	1
III .....	2
IV .....	2
V .....	2
VI .....	3
VII .....	3
VIII .....	3
IX .....	4
X .....	4
XI .....	5
XII .....	5
XIII .....	5
XIV .....	5
XV .....	5
XVI .....	6
XVII .....	6
XVIII .....	6
XIX .....	7
Proof of Service .....	8

### New Jersey Statute Cited

Article 3, Chapter 37, Title 2A .....	2, 3
---------------------------------------	------

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1961

---

**No. 13 Original**

---

---

STATE OF TEXAS,

*Plaintiff,*

*v.*

STATE OF NEW JERSEY, *et al.*,

*Defendants.*

---

**ANSWER OF THE STATE OF NEW JERSEY TO  
THE COMPLAINT OF THE STATE OF TEXAS**

The State of New Jersey, by Arthur J. Sills, Attorney General of the State of New Jersey, State House Annex, Trenton, New Jersey, answering the complaint of plaintiff says:

**I**

The allegations of paragraph I of the Complaint are admitted.

**II**

The allegations of paragraph II of the Complaint are admitted.

## III

In answer to the allegations of paragraph III of the Complaint, the State of New Jersey, acting by and through the Attorney General of the State of New Jersey has commenced a civil action in the Superior Court of New Jersey, under the provisions of Article 3, Chapter 37, Title 2A, New Jersey Statutes, seeking custody, for safekeeping, of property held by the Sun Oil Company, a corporation organized and existing under the laws of the State of New Jersey and doing business within the State of New Jersey. Said property consists of monies payable as: dividends upon capital stock preferred or common; interest upon the corporation's bonds, indentures, notes or other formal instruments evidencing the indebtedness of the corporation; wages from the corporation; and other general cash obligations, which are payable to persons who have been unknown or whose whereabouts has been unknown for a period of 5 successive years or which have been unclaimed for a period of 5 successive years.

## IV

In answer to the allegations of paragraph IV of the Complaint, the State of New Jersey admits that the State of Pennsylvania has indicated an intention to claim some of the property which may be the subject of this suit, but this defendant is without sufficient knowledge or information to form a belief as to the exact amount claimed by the State of Pennsylvania.

## V

In answer to the allegations of paragraph V of the Complaint, Sun Oil Company is a corporation organized and existing under the laws of the State of New Jersey with its principal office within the State of New Jersey, as required by law, and is actively engaged in business opera-

tions within the State of New Jersey. It is admitted that the Sun Oil Company has business operations in the States of Pennsylvania and Texas and other states of the United States, but New Jersey is without sufficient information and knowledge to form a belief as to the issuance of certificates of authority issued to Sun Oil Company for the transaction of business in other states.

## VI

In answer to the allegations of paragraph VI of the Complaint, it is admitted that plaintiff has mailed a copy of the Complaint to the Governor and the Attorney General of the State of New Jersey. As to the other allegations contained in paragraph VI of the Complaint, New Jersey is without sufficient knowledge and information to form a belief concerning same, and plaintiff is left to its proof thereof.

## VII

In answer to the allegations of paragraph VII of the Complaint, it is admitted that a statement of claims against Sun Oil Company has been sent to the State of Texas by the Sun Oil Company. All of the allegations contained in paragraph VII of the Complaint to the effect that such claims are subject to escheat to the State of Texas are denied.

## VIII

In answer to the allegations of paragraph VIII of the Complaint, it is admitted that there is pending in the Superior Court of New Jersey a civil action by the State of New Jersey against Sun Oil Company, under the provisions of Article 3, Chapter 37, Title 2A, New Jersey Statutes, whereby New Jersey seeks custody of monies payable on claims against Sun Oil Company as indicated in paragraph III above.

It is further admitted that neither the State of Texas nor any other state was made a party in said civil action pending in the Superior Court of New Jersey.

The allegation of paragraph VIII that a defense asserted by Sun Oil Company was overruled at the pretrial conference is denied, and this defendant asserts that all defenses raised by Sun Oil Company at the pretrial will be available to the Sun Oil Company at the trial when same is held.

On motion of the State of New Jersey, further proceedings in the aforesaid civil action in the New Jersey Superior Court have been stayed pending final disposition by this Court of the within action.

## IX

In answer to the allegations of paragraph IX of the Complaint, it is admitted that Sun Oil Company contends that the State of Texas claims some of the property which is the subject of the pending civil action in the New Jersey Superior Court.

The allegations in paragraph IX of the Complaint that Texas has any claim to the funds held by Sun Oil Company, which are the subject of said action pending in the New Jersey Superior Court, are denied.

Further proceedings in the civil action pending in the New Jersey Superior Court have been stayed pending final disposition in this Court of the within action.

## X

In answer to the allegations of paragraph X of the Complaint, New Jersey is without knowledge or information sufficient to form a belief as to the allegations in paragraph X of the Complaint, and they are denied.

**XI**

In answer to the allegations of paragraph XI of the Complaint, defendant is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph XI of the Complaint, and they are denied.

**XII**

In answer to the allegations of paragraph XII of the Complaint, defendant is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph XII of the Complaint and they are denied.

**XIII**

The allegations of paragraph XIII are denied.

**XIV**

The allegations of paragraph XIV are denied.

**XV**

In answer to the allegations contained in paragraph XV of the Complaint, it is admitted that the State of Pennsylvania lacks the power to escheat or take custody of personal property in the custody or possession of the defendant, Sun Oil Company, which is payable to persons who are unknown or whose whereabouts has been unknown, or which property has been unclaimed for more than five successive years.

In the face of the conflicting claims of Texas, Pennsylvania, New Jersey, and other states, it necessarily follows that New Jersey is the only state with power to escheat or take custody of the personal property which is the subject of this action.

**XVI**

In answer to the allegations of paragraph XVI of the Complaint, it is denied that the intangible personal property claimed by the State of Texas is in real, actual, and imminent danger of being declared escheated to the State of New Jersey by the New Jersey courts. The civil action pending in the New Jersey Superior Court wherein the State of New Jersey is plaintiff and the Sun Oil Company is defendant is an action for custody. Under the New Jersey law, no action to escheat said property can be taken until at least two years after judgment for custody is entered.

**XVII**

In answer to the allegations of paragraph XVII of the Complaint, it is admitted that the State of Texas is entitled to the opportunity to discover and develop all the relevant facts and circumstances pertaining to the subject property. The State of New Jersey and other parties in the action are entitled to the same opportunity to discover and develop all relevant facts and circumstances pertaining to the subject property. New Jersey stands ready to cooperate with the other parties in this cause in an effort to agree upon a stipulation of all relevant facts so that the questions involved in this matter may be expeditiously disposed of by the Court.

**XVIII**

In answer to the allegations of paragraph XVIII of the Complaint, it is admitted that the State of Texas is entitled to be heard by this Court on its claim to the right and power to escheat the subject property. The State of New Jersey is also entitled to like opportunity to establish its exclusive and superior right and power to take custody of or escheat the subject property.

## XIX

WHEREFORE, the State of New Jersey prays:

a. That the prayer set forth in subparagraphs 3, 4, 5, 6, 7, and 8 of paragraph XIX of the Complaint be denied and that this Court decree that the State of New Jersey has sole and exclusive power to take custody of intangible personal property of the nature involved in this action and to escheat same if said property continues to remain unclaimed for the period of custody provided by New Jersey law.

b. That the State of New Jersey have such other and further relief as this Court may deem proper.

ARTHUR J. SILLS,  
Attorney General of New Jersey  
*Attorney for Defendant, State of  
New Jersey.*

THEODORE I. BOTTER,  
Assistant Attorney General,

CHARLES J. KEHOE,  
Deputy Attorney General,

*Counsel for Defendant,  
State of New Jersey.*

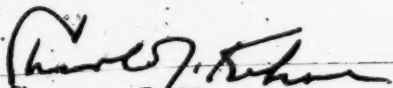
*Charles J. Kehoe*

**Proof of Service**

I, Charles J. Kehoe, Deputy Attorney General of the State of New Jersey, one of the attorneys for defendant, State of New Jersey, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 27th day of November, 1962, I served copies of the foregoing Answer of Defendant, State of New Jersey, to Complaint of State of Texas on each of the other parties to this action by depositing copies in a United States post office or mail box, with first class postage or air mail postage prepaid, and addressed to:

- (1) Honorable Price Daniel  
Governor of Texas  
State Capitol  
Austin, Texas
- (2) Honorable Will Wilson  
Attorney General of Texas  
Courts Building  
Austin 11, Texas
- (3) Honorable David L. Lawrence  
Governor of Pennsylvania  
State Capitol  
Harrisburg, Pennsylvania
- (4) Honorable David Stahl  
Attorney General of Pennsylvania  
State Capitol  
Harrisburg, Pennsylvania
- (5) Mr. Henry A. Frye  
Attorney for the Defendant,  
Sun Oil Company  
Pepper, Hamilton & Scheetz  
Fidelity-Philadelphia Trust Building  
Philadelphia 9, Pennsylvania

It is further certified that copies of the Answer of Defendant, State of New Jersey, to Complaint of the State of Texas have been served on the states named in paragraph VI of plaintiff's Complaint by depositing copies in a United States post office or mail box, with first class or air mail postage prepaid and addressed to the Governors and Attorneys General of each of such states.



CHARLES J. KEHOE,

Deputy Attorney General of New Jersey.